

## **REMARKS**

This paper is being submitted in response to the final office action dated February 23, 2007. Claims 1-18 and 20 were pending. By this amendment, Claims 1 and 18 are amended. Support for the amendments to claims 1 and 18 may be found in the specification and claims as originally filed. No new matter is added. As a result, claims 1-18 and 20 remain pending and at issue.

Claim 1 is amended to recite a portable container comprising, *inter alia*, “a cover portion removably attached to a rigid structural portion.” (Emphasis added) As shown in Figs. 1, 11, and 12, the cover portion 34 is attached to the rigid portion 32 with a rod member 84 placed into a channel shaped recess 86. *See also*, the third full paragraph on page 5 of the instant application. This rod-in-channel arrangement renders the cover portion 34 removable from the rigid portion by stretching the pliable material of the cover portion 34 over the edges of the channel shaped recess 86. As a result, a user may remove the pliable portion for cleaning, customization, etc.

### **Rejections Under 35 U.S.C. § 102 (b) Over Platte**

The applicants respectfully traverse the rejection of claims 1, 4, 9-11, 14 and 18 as allegedly anticipated by U.S. Patent No. 6,672,439 to Platte, III (“Platte”). “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987).

#### **Claims 1, 4, 9-11, and 14**

Each of claims 1, 4, 9-11, and 14 recites a portable container comprising, *inter alia*, a rigid structural portion and a cover portion removably attached to the rigid structural portion and, indeed, teaches away from a removably attached cover portion as claimed. Platte fails to disclose or suggest a cover portion removably attached to a rigid structural portion.

In particular, while Platte discloses a tote bag/organizer including front and back walls 12, 24, a bottom wall 16, side walls 22 and a cover 52, the cover 52 is not removably attached to the front, back or bottom walls (the only disclosed “fairly rigid” structures). In fact, Platte teaches exactly the opposite. Platte teaches that the cover is formed “unitarily” with the casing 20 of the front, back and bottom wall. *See* Platte, col. 4, lines 26-28.

Alternatively, Platte teaches that the cover may be “sewn or otherwise attached to the top edge of the back wall 14.” *See* Platte, col. 4, lines 28-29. Regardless, Platte specifically teaches that the cover is attached to the casing 20 in such a way that the cover is not removable. Thus, Platte fails to teach a cover portion removably attached to a rigid structural portion and, indeed, teaches away from a removably attached cover portion as claimed. As a result, none of claims 1, 4, 9-11, and 14 is anticipated by Platte. The applicants respectfully request withdrawal of the rejection of claims 1, 4, 9-11, and 14.

#### Claim 18

Claim 18 recites a container for holding hanging file folders comprising, *inter alia*, “surfaces for supporting hanging file folders; and lips on at least one end of the surfaces to prevent the file folders from sliding off of the surfaces.” Platte fails to disclose or suggest these elements.

In particular, Platte discloses a tote bag/organizer including front, back and bottom walls connected by flexible side walls. The flexible side walls are not capable of holding a hanging file folder. The flexible side walls have a smooth, flexible top edge connecting dividers 40 and the front and back walls. *See* Platte Fig. 3 and col. 3, lines 51-52. These flexible side walls do not have lips of any sort, nor could these flexible side walls support hanging file folders. *See* Platte, Fig. 3. As a result, Platte fails to disclose or suggest surfaces having lips on at least one end of the surfaces as is recited by claim 18, thus claim 18 is not anticipated by Platte. The applicants respectfully request withdrawal of the rejection of claim 18.

### **35 U.S.C. § 102 (b) Rejections Over Cyr**

The applicants respectfully traverse the rejection of claims 1, 4, and 6 as allegedly anticipated by U.S. Patent No. 6,206,567 to Cyr (“Cyr”). Each of claims 1, 4, and 6 recites a portable container comprising, *inter alia*, a rigid structural portion and a cover portion removably attached to the rigid structural portion. Cyr fails to disclose or suggest this element.

In particular, Cyr discloses a container with dual openings having a base, two end walls, two side walls and a closure flap 26 covering a top opening; however, the closure flap 26 is not removably attached to the end or side walls. *See* Cyr, Figs. 2 and 3 and Col. 3, lines 1-19. Thus, Cyr does not anticipate a portable container comprising, *inter alia*, a rigid structural portion and a cover portion removably attached to the rigid structural portion, as is recited by each of claims 1, 4, and 6. The applicants respectfully request withdrawal of the rejection of claims 1, 4, and 6.

### **35 U.S.C. § 102 (b) Rejections Over Strong**

The applicants respectfully traverse the rejection of claims 1, 4, and 5 as allegedly anticipated by U.S. Patent No. 5,873,730 to Strong (“Strong”). Each of claims 1, 4, and 5 recites a portable container comprising, *inter alia*, a rigid structural portion and a cover portion removably attached to the rigid structural portion. Strong fails to disclose or suggest this element.

In particular, Strong discloses a device very similar to the Cyr device in that Strong discloses a career guidance organizer including a bag body 12 having a front wall 20, a rear wall 22, opposed side walls 24, and a closing flap 32. *See* Strong, col. 2, lines 5-9. However, the closing flap is not removably attached to the bag body 12. Rather, Strong teaches that the closing flap 32 “extends from the rear wall 22.” *See* Strong, col. 2, lines 7-8. Thus, Strong fails to disclose a rigid structural portion and a cover portion removably

attached to the rigid structural portion, as is recited by each of claims 1, 4, and 5, and therefore cannot anticipate any of claims 1, 4, and 5. The applicants respectfully request withdrawal of the rejection of claims 1, 4, and 5.

#### **Rejections Under 35 U.S.C. § 103(a)**

The applicants respectfully traverse the rejection of claims 2, 3, 7, 8, 12, 13, 15-17, and 20 as allegedly obvious over one or more of Platte; U.S. Patent No. 5,779,331 to Fox et al. ("Fox"); U.S. Patent No. 3,281,193 to Murray ("Murray"); and U.S. Patent No. 6,126,012 to Roegner ("Roegner"). To establish a *prima facie* case of obviousness, "the prior art reference (or references when combined) must teach or suggest all the claim limitations." M.P.E.P. § 2143. The cited art fails to disclose or suggest all claim limitations.

#### Claims 2, 3, 7, 8, 12, 13, and 15-17

Each of claims 2, 3, 7, 8, 12, 13, and 15-17 recites a rigid structural portion and a cover portion removably attached to the rigid structural portion. As shown above with respect to the § 102 rejections, Platte fails to disclose or suggest this element.

Similarly, Fox fails to disclose or suggest a rigid structural portion and a cover portion removably attached to the rigid structural portion, nor was Fox cited for such an element. In particular, Fox discloses a file management system including a file support 10 (in the shape of a box) and an insert 20 to support files. However, Fox fails to disclose a cover portion of any sort, let alone a cover portion removably attached to a rigid structural portion. Thus, Fox fails to disclose or suggest a rigid structural portion and a cover portion removably attached to the rigid structural portion as is recited by each of claims 2, 3, 7, 8, 12, 13, and 15-17.

Likewise, Murray fails to disclose or suggest a rigid structural portion and a cover portion removably attached to the rigid structural portion, nor was Murray cited for such an element. In particular, Murray discloses a vertical filing cabinet including a rectangular sheet metal cabinet 11 having side walls 12 and end walls 13. However, Murray fails to disclose or suggest a cover portion removably attached to the rigid structural portion. Specifically,

Murray teaches a cover 28 connected to the cabinet via a “piano hinge,” which is not a removable attachment. Thus, Murray fails to disclose or suggest a rigid structural portion and a cover portion removably attached to the rigid structural portion, as is recited by each of claims 2, 3, 7, 8, 12, 13, and 15-17.

Roegner also fails to disclose or suggest a rigid structural portion and a cover portion removably attached to the rigid structural portion, nor was Roegner cited for such an element. In particular, Roegner discloses a bingo bag carrying case including a primary shell having a pair of half shells 12 and 14 hinged together forming a receptacle. *See* Roegner, col. 3, lines 23-25. Even if one or more of the half shells 12, 14 were considered a cover portion, the half shells 12, 14 are not removably attached. To the contrary, Roegner teaches that the half shells 12, 14 are “hinged together along a common side.” *See* Roegner, col. 3, lines 24-25. Thus, Roegner fails to disclose or suggest a rigid structural portion and a cover portion removably attached to the rigid structural portion, as is recited by each of claims 2, 3, 7, 8, 12, 13, and 15-17.

Because none of Platte, Fox, Murray, and Roegner discloses or suggests a rigid structural portion and a cover portion removably attached to the rigid structural portion, none of claims 2, 3, 7, 8, 12, 13, and 15-17 can be rendered obvious by any combination thereof. As a result, the applicants respectfully request withdrawal of the rejection of claims 2, 3, 7, 8, 12, 13, and 15-17.

#### Claim 20

The applicants respectfully traverse the rejection of claim 20 as obvious over Platte in view of Murray. Claim 20 now recites a container for holding hanging file folders comprising, *inter alia*, “surfaces for supporting hanging file folders; and lips on at least one end of the surfaces to prevent the file folders from sliding off of the surfaces.” As shown above with respect to the § 102 rejections, Platte fails to disclose or suggest this element.

Likewise, Murray fails to disclose or suggest lips on at least one end of the surfaces to prevent the file folders from sliding off of the surfaces. In particular, while Murray discloses a filing cabinet for holding file folders, the cabinet does not have lips of any sort on surfaces which support the file folders. *See, e.g., Murray, Fig. 1.* In fact, the Murray device supports file folders along tracks 17, 18, and these tracks do not have lips of any sort, nor would one of ordinary skill in the art modify the tracks 17, 18 to include lips. One of ordinary skill in the art would not modify the tracks because there is no danger of file folders falling off of the tracks 17, 18 of the Murray device. The file folders are prevented from falling off of the tracks 17, 18 because the tracks 17, 18 form a closed circuit and thus do not have any free ends where the files could fall off of the tracks. Thus, Murray fails to disclose or suggest a container for holding hanging file folders comprising, *inter alia*, “surfaces for supporting hanging file folders; and lips on at least one end of the surfaces to prevent the file folders from sliding off of the surfaces,” as is recited by claim 20.

Because neither Platte nor Murray discloses or suggests lips of any sort on at least one end of the surfaces that support file folders, claim 20 cannot be anticipated by any combination of Platte and Murray. The applicants respectfully request withdrawal of the rejection of claim 20.

### **Obvious Matter of Choice**

With respect to the rejection of claims 2, and 3 as obvious over Platte, the applicants disagree that the attachment means is an obvious matter of choice. In particular, as discussed above, the rod-in-channel configuration allows the cover portion to be removably attached to the rigid portion. This feature produces a distinct advantage over known containers in that a user can detach the flexible cover portion for cleaning, customization, etc. Thus, while the manner of attachment may, in some cases, be an obvious matter of choice, this is only the case where the proposed alternate manner of attachment produces a similar result. This is not the case with the rod-in-channel configuration. Thus, a rod-in-channel

manner of attachment would not be an obvious matter of choice for one skilled in the art in this particular instance.

### CONCLUSION

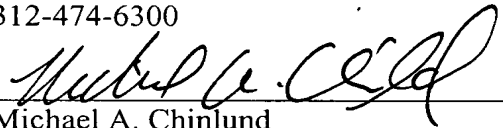
The applicants respectfully request entry of the foregoing amendments and consideration of the foregoing remarks. It is submitted that claims 1-18 and 20 are now in proper form and scope for allowance. Reconsideration is requested.

The applicants respectfully submit that the foregoing amendments do not raise new issues. Thus, no fees are believed due. However, if there are any fees (or refunds) required, the Commissioner is directed to charge (or credit) Deposit Account No. 13-2855 of Marshall, Gerstein & Borun LLP. A copy of this paper is enclosed herewith. In view of the foregoing, the pending application is in condition for allowance. If, in the opinion of the examiner, a telephone conference would expedite prosecution of the subject application, the examiner is invited to call the undersigned attorney at the number indicated below.

Respectfully submitted,

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